

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)

PLAYTEX PRODUCTS, INC., a Delaware
corporation,

Plaintiff,

v.

THE PROCTOR & GAMBLE
DISTRIBUTING COMPANY, an Ohio
corporation, and THE PROCTOR &
GAMBLE COMPANY, an Ohio corporation,

Defendants.

CASE NO. C-1-02-391

(Hon. Thomas M. Rose)

**PLAINTIFF'S PROPOSED SPECIAL
VERDICT FORM**

Plaintiff Playtex Products, Inc. ("Playtex") submits the attached special verdict form for the Court's consideration. As set forth in Playtex's Memorandum in Response to Defendants' Memorandum on Juror Comprehension Techniques, Playtex believes that the content of the verdict form should be determined in conjunction with the conference on final jury instructions.

Depending on the evidence presented and the rulings of the Court, Playtex reserves the right to modify, delete or supplement the proposed special verdict form.

Respectfully submitted,

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Playtex Products, Inc.

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PLAINTIFF PLAYTEX PRODUCTS, INC.'S PROPOSED SPECIAL VERDICT FORM

We, the jury, unanimously find as follows:

LITERAL INFRINGEMENT OF PLAYTEX'S PATENT

1. Do you find that Playtex has shown by a preponderance of the evidence that one or more of the following claims of the '178 Patent is literally infringed by P&G? A "Yes" answer is a finding for Playtex. A "No" answer is a finding for P&G.

	For Playtex	For P&G
Claim 1	YES _____	NO _____
Claim 2	YES _____	NO _____
Claim 3	YES _____	NO _____
Claim 9	YES _____	NO _____
Claim 10	YES _____	NO _____

Please go to Question 2.

INFRINGEMENT UNDER THE DOCTRINE OF EQUIVALENTS

2. Do you find that Playtex has shown by a preponderance of the evidence that P&G infringes one or more of the following claims of the '178 Patent under the doctrine of equivalents? A "Yes" answer is a finding for Playtex. A "No" answer is a finding for P&G.

	For Playtex	For P&G
Claim 1	YES _____	NO _____
Claim 2	YES _____	NO _____
Claim 3	YES _____	NO _____
Claim 9	YES _____	NO _____
Claim 10	YES _____	NO _____

If your answer to one or more of the claims in Question 1 or Question 2 is "Yes," please go to Question 3. If your answers to all of the claims in Question 1 and Question 2 are "No," please skip to Question 4.

3. If your answer to one or more of the claims in Question 1 or Question 2 is "Yes," do you find that Playtex has proven by clear and convincing evidence that P&G's infringement of the '178 Patent was willful?

For Playtex	For P&G
YES _____	NO _____

Please go to Question 4.

VALIDITY OF PLAYTEX'S PATENT

4. Do you find that P&G has shown by clear and convincing evidence that any of the following claims of the '178 Patent are invalid due to anticipation?

	For Playtex	For P&G
Claim 1	NO _____	YES _____
Claim 2	NO _____	YES _____
Claim 3	NO _____	YES _____
Claim 9	NO _____	YES _____
Claim 10	NO _____	YES _____

Please go to Question 5.

5. Do you find that P&G has shown by clear and convincing evidence that any of the following claims of the '178 Patent are invalid due to obviousness?

	For Playtex	For P&G
Claim 1	NO _____	YES _____
Claim 2	NO _____	YES _____
Claim 3	NO _____	YES _____
Claim 9	NO _____	YES _____
Claim 10	NO _____	YES _____

If you answered "Yes" to any one or more claims in Question 1 or Question 2, and answered "No" for any of those same claims in Questions 4 and 5, please go to Question 6. Otherwise, please skip Question 6 and go to the end of the verdict form.

DAMAGES OWED TO PLAYTEX

6. If you have found that P&G has infringed at least one claim of '178 Patent, and have not found that the infringed claim is invalid, what amount of damages do you find Playtex to have proven by a preponderance of the evidence?

(a) Total Infringing Sales:

\$ _____

(b) Reasonable Royalty Rate:

_____ %

(c) Total Reasonable Royalty (multiply (a) x (b)):

\$ _____

You each must sign this Verdict Form:

Dated: _____

(Foreperson)
